



On July 26, 2023, the Court held a re-sentencing hearing for Defendant, during which defense counsel argued the Court should order a new trial and sentencing, which the Court denied from the bench. *See* July 26, 2023 Re-Sentencing Hearing Transcript at 31, ECF No. 593. On August 15, 2023, defense counsel submitted a letter requesting the Court enter a written order memorializing its oral denial of Defendant's Motion during the July 26, 2023 re-sentencing hearing. ECF No. 594.

The Second Circuit has “long enforced waivers of direct appeal rights in plea agreements.” *Garcia-Santos v. United States*, 273 F.3d 506, 509 (2d Cir. 2001). Indeed, with respect to the case at hand, the Second Circuit has specifically emphasized: “[a]s part of his plea agreement, Rakhmatov agreed not to ‘file an appeal or otherwise challenge, by petition pursuant to 28 U.S.C. § 2255 or any other provision, the conviction or sentence’ provided he was sentenced to 150 months’ imprisonment or less. The district court sentenced him to 150 months in prison. Although he disagrees with this sentence, he cannot use Rule 35(a) to overcome his waiver. His appeal from the decision on the motion must be dismissed.” *United States v. Rakhmatov*, 53 F.4th 258, 261 (2d Cir. 2022), *cert. denied*, 143 S. Ct. 2476 (2023). The Court re-sentenced Defendant to 150 months of incarceration, in addition to two (2) years of supervised release, and payment of a \$100.00 special assessment. Amended Judgment, ECF No. 584. Accordingly, the Court hereby DENIES Defendant's Motion.

Furthermore, on August 16, 2023, counsel for Defendant submitted an additional letter requesting the Court “include the certification of the appeal in the order.” ECF No. 595. The Court DENIES Defendant's request and refers the Second Circuit on appeal to the transcript of the July 26, 2023 re-sentencing hearing, which is attached to this Decision & Order as Exhibit A.

**SO ORDERED**

**s/ WFK**

  
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HON. WILLIAM F. KUNTZ, II  
UNITED STATES DISTRICT JUDGE

Dated: Brooklyn, New York  
August 16, 2023